

**Department of  
Aging**

**John Kasich**, Governor  
**Bonnie Kantor-Burman**, Director

## NOTICE

H.B. No. 153's amendments to sections 173.401, 173.404, 173.501, and 5111.894 of the Revised Code take effect on September 29, 2011. The amendments will change the **Unified Waiting List** and the Home First component of the Medicaid-Funded Component of the PASSPORT Program, the Medicaid-Funded Component of the Assisted Living Program and PACE, by preventing ODA's designees (*i.e.*, the PASSPORT administrative agency) and PACE organizations from adding an individual to the Unified Waiting List only to immediately remove the individual from the list because he or she qualifies for Home First component of the program. This will allow ODA's designee or a PACE organization to immediately enroll an eligible individual into the program any time a slot is available in the program without the formality of adding and removing the individual from the waiting list. ODA must now amend rule 173-44-04 of the Administrative Code to incorporate this same change into the Administrative Code. ODA proposes to adopt the amendments to the rule on September 29, 2011, the same day that H.B. No. 153's amendments take effect.

ODA will conduct a public hearing to obtain comments concerning ODA's proposed amendment to rule 173-44-04 of the Administrative Code. ODA will conduct the hearing on **August 15, 2011** in Conference Rooms **10A & 10B** of the ODA's offices at 50 W. Broad Street, **10th floor**; Columbus, OH 43215. The hearing will begin at **1:30PM** and will continue until all parties in attendance at that time have had an opportunity to provide comment.

ODA will consolidate this public hearing with at least seven other public hearings on August 15, 2011 to reduce the state's administrative expenses and to reduce the general public's costs associated with traveling to Columbus to participate in public hearings.

Any person may direct written comments or requests for information concerning the proposed rule amendments to Tom Simmons, ODA's rules manager, on or before the date of the hearing by writing to [rules@age.state.oh.us](mailto:rules@age.state.oh.us).

(Please also note the related rule packages regarding the Medicaid-Funded Assisted Living Program, PACE, and the Medicaid-Funded PASSPORT Program.)

### INTRODUCTION

ODA is proposing to amend rule 173-44-04 of the Administrative Code. In doing so, ODA has 3 basic goals:

1. To incorporate H.B. No. 153's amendments into the rule. H.B. No. 153's amendments to sections 173.401, 173.404, 173.501, and 5111.894 of the Revised Code take effect on September 29, 2011. The amendments will change the Unified Waiting List and the Home First component of the Medicaid-Funded Component of the PASSPORT Program, the Medicaid-Funded Component of the Assisted Living Program and PACE, by preventing ODA's designees (*i.e.*, the PASSPORT administrative agency) and PACE organizations from adding

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an individual to the Unified Waiting List only to immediately remove the individual from the list because he or she qualifies for Home First component of the program. This will allow ODA's designee or a PACE organization to immediately enroll an eligible individual into the program any time a slot is available in the program without the formality of adding and removing the individual from the waiting list. ODA must now amend rule 173-44-04 of the Administrative Code to incorporate this same change into the Administrative Code. ODA proposes to adopt the amendments to the rule on September 29, 2011, the same day that H.B. No. 153's amendments take effect.

2. To comply with section 119.032 of the Revised Code, which requires each state agency to review each rule on or before the rule's designated review date.
3. To comply with Governor Kasich's Executive Order 2011-01K "Implementing Common Sense Business Regulation" and S.B. No. 2 (129<sup>th</sup> G.A.) which require each state agency to eliminate unnecessary regulations and to write easier-to-read and easier-to-comprehend rules to promote transparency in the agency's regulations. In 2011, ODA adopted rule 173-44-04 of the Administrative Code after undergoing a similar review process. After reviewing this rule again, ODA has determined that:
  - a. The rule and the proposed amendment to the rule do not burden any Ohio business. The only businesses subject to the rule are ODA's designees and PACE organizations and the rule proposals eliminate an unnecessary process that current rules require of ODA's designees and PACE organizations.
  - b. ODA wrote the rule and the proposed amendment to the rule in a manner that is as easy to understand as the subject matter permits.

ODA is also proposing to amend this rule after providing interested parties and the general public an opportunity to provide input on the proposed amendments to the rule. From June 30, 2011 to July 11, 2011, ODA posted the proposed amended rule on <http://aging.ohio.gov/information/rules/proposed.aspx> for a public-comment period.

#### **173-44-04 Unified waiting list.**

Specifically, ODA is proposing to amend this rule to:

1. Add similarity to the enrollment rule for the Medicaid-funded component of the PASSPORT Program and the enrollment rule for the Medicaid-funded component of the Assisted Living Program by using "individual" instead of "applicant" throughout the rule to refer to the person who applies for the program.
2. Replace "for serving PACE applicants" in paragraph (A) of the rule with "in PACE."
3. Add language to paragraph (A) of the rule to indicate that the Unified Waiting List is for the Medicaid-funded components of the PASSPORT and Assisted Living Programs, not the state-funded components of the PASSPORT and Assisted Living Programs.
4. Replace "the CDJFS" in paragraph (B)(1) of the rule with "ODA's designee."
5. Replace "exceptions" in paragraph (B)(2) of the rule with "exception."
6. Delete "or (B)(3)" from paragraph (B)(2) of the rule.
7. Provide references to ODA's enrollment-process rules in paragraph (B)(2)(b) of the rule for each program.
8. Remove the Home First language from paragraph (B)(3) of the rules. The language now appears in rules 173-38-03, 173-42-03, and 173-50-03 of the Administrative Code.
9. Add "unified" before "waiting list" in two instances in paragraph (B)(3) of the rule.
10. Add paragraph (B)(5) to the rule, which says, "If a slot is available in the program to which an eligible individual has applied, ODA's designee or the PACE organization shall not place the individual on the unified waiting list."
11. Indicate in paragraph (C)(1) of the rule that "assisted living program," as used in this rule, does not refer to the – state-funded component of the Assisted Living Program."

12. Delete the definition of “CDJFS,” because ODA does not use the term in this rule.
13. Insert “medicaid-funded” before “program” in paragraph (C)(2) of the rule.
14. Indicate in paragraph (C)(9) of the rule that “assisted living program,” as used in this rule, does not refer to the – state-funded component of the PASSPORT Program.”
15. Insert “173.01” into the statutory authority section because section 173.01 of the Revised Code gives ODA authority to adopt this rule.